

Attachment 1

Exhibit B to the Joint Submission of the Stipulation and [Proposed] Order for the Production and Exchange of Confidential Information:
Defendants' Proposed Language for Paragraph 16(e)

(e) Use of Privileged Material at Deposition: If, during a deposition, a Party claims that a document being used in the deposition (*e.g.*, marked as an exhibit, shown to the witness, or made the subject of examination) is subject to the Party's attorney-client privilege, work product doctrine, and/or any other applicable privilege or immunity from disclosure, the Party shall state on the record that the document is privileged, or contains privileged material, and may request return of the document from the examining Party. Once the privilege has been asserted, the Party asserting the privilege may, at its sole election (a) allow the examining Party to use the document to question the witness without waiver of its claim of privilege or work-product protection, or (b) request return of the document, or portion of the document over which privilege is asserted, and refuse to permit questioning on such privileged material. The examining Party may not ask questions relating to a document, or portion of a document, over which a privilege claim has been asserted unless expressly agreed to on the record by the Party asserting the privilege. If the Party asserting the privilege permits questioning on such privileged document on the basis that the questioning will be without waiver of privilege, such portion of the deposition shall be treated as **HIGHLY CONFIDENTIAL INFORMATION** pending the resolution of any dispute and the examining Party may not argue that privilege or immunity has been waived by the Party giving permission to question the witness about the document. If there is a dispute over the privileged nature of the document, the Parties shall meet and confer in good faith following the deposition and, in the event the Parties are unable to resolve the issue themselves, shall cooperate in

promptly submitting the issue of the document's status to the Court. If the document is ultimately determined not to be privileged or subject to other protection, the Party asserting the claim of privilege will be responsible for ensuring that the examining Party is given an opportunity to question the witness about the document within thirty (30) calendar days of said determination if said witness is represented by the Party asserting the claim of privilege. If said witness is a non-party or is represented by another Party, the Party asserting the claim of privilege shall agree not to oppose additional questioning of the witness and will make best efforts to ensure that the questioning Party is given the opportunity to question the witness about the document at the earliest practicable time for the witness and its counsel.